IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/07/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION.NO.8793 OF 1999

Tmt.A. Ammini .. Petitioner

-Vs-

1. The State of Tamil Nadu,
rep. by Secretary,
Education Department,
Fort St. George,
Chennai 600 009.

2. The Accountant General,
Anna Salai,
Chennai.

3. The Director of Elementary
Education, Chennai.

4. The District Educational Officer,
Sankarai, Tiruchencode,
Nammakal District.

5. The District Primary School
Education Officer, Nammakkal.

6. The Correspondent,
Kaklaimagal Kalvi Nillayam,
Higher Elementary School,
Tiruchencode,
Nammakal District. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.K. Vasudevan

For Respondents 1,3,5: Mr.V.R. Rajasekaran
Special Govt. Pleader

Respondent-2 : Mr.T. Ravikumar, ACGSC

:J U D G M E N T

The petitioner was appointed as Higher Grade Assistant in 6th respondent school wherein he has served for more than 20 years. Due to her ill-health, she has resigned in the year 1971 and thereafter approached the respondent No.6 for payment of pension. Respondent No.6 forwarded the pension proposal to the Education Department, but the said proposal was rejected by letter No.506/A1/96 dated 16.4.1998 on the ground that the petitioner had resigned as Secondary Grade Teacher with effect from 7.6.1971 and there is no provision in the pension rules to sanction pension. Thereafter the petitioner had sent representation to the second respondent and such representation remained unresponded. The District Primary School Education Officer by letter No. Na.Ka.No.1402/99/P1 dated 31.3.1999 informed that the petitioner was not

entitled for pensionary benefits as per Rule 23 as she had resigned the job on her own accord on 7.6.1971. Such order is being challenged in this writ petition.

2. A counter affidavit has been filed on behalf of the second respondent justifying the action.

3. The petitioner has relied upon G.O.Ms.No.37 dated 5.1.1983. The relevant portion of the said G.O. is to the following effect :-

 ... 6. As regard those who retired before the crucial dates in the case of Non-teaching staff etc. who were given pension benefits from 5-6-81, there are specific general instructions in para 6 of G.O.1 015/5-6-81 permitting the allowing of pension to Resigned teachers persons also; but there are no such general instructions permitting the allowing of pension to Resigned teachers (who were given pension benefits from 1-3-68 as per G.O.Ms.1505/24-9-68). Orders are however being issued in individual cases of such teachers who had resigned before the crucial dates. In this context, the Accountant General has asked for a clarification on the following two points :-

i) Whether it is the intention of the Government to allow pension to all the teaching staff of Aided and Local Body Schools and Teaching Staff of Aided Colleges who had Resigned from service prior to the respective crucial date/dates of the respective Government Order introducing pensionary benefits?

ii) And if so, whether they are eligible to draw pension from 1-3-68 with reference to Government Order Ms.No.1505, Edn. dated 24-9-68 read with Government Memo No.21344/E.6/68-5.Edn, dated 18-11-68.

7. The Government now clarify point (i) above in the affirmative i. e., the staff in question may be sanctioned pension by the respective authorities competent to sanction pension (without the need for any specific orders of any higher authority or of Government condoing the resignation in

each individual case.)

8. However, as regards point (ii) above, the Government direct that the persons benefitted with reference to the above clarification need be allowed pension only from 5-6-81 and that no arrears need be allowed for the periods prior to 5-6-81.

4. The second respondent in the counter, however, has stated that pensionary benefit to the teachers employed in the aided school is governed by G.O.Ms.No.1015 dated 5.6.1981 which provided for payment of pension on certain conditions and since the petitioner being well aware of such Government Order had voluntarily resigned, she is not entitled to get pension.

5. The distinction sought to be made by the second respondent, namely the Accountant General appears to be too technical and pedantic. The rules providing for pension, being beneficial in nature, should be given a liberal meaning. The intention under the subsequent order issued by the Government is to extend the benefit to the persons who were not entitled or eligible to pension at the time of their earlier retirement or even resignation. Therefore, in my opinion, the representation of the petitioner for payment of pension should not have been rejected. However, on the basis of petitioner's representation, recommendation had been only in January, 1998 and was rejected in April, 1998.

6. Having regard to all these aspects, the writ petition is allowed in part and the respondents are directed to pay pension with effect from January 1998. This direction should be carried out including payment of pension arrears from January 1998 within a period of four months from the date of communication of this order. No costs.

Index : Yes
Internet : Yes

dpk

To

1. The State of Tamil Nadu,
rep. by Secretary,
Education Department,
Fort St. George,
Chennai 600 009.

2. The Accountant General,
Anna Salai,
Chennai.

3. The Director of Elementary

Education, Chennai.

4. The District Educational Officer,
Sankarai, Tiruchencode,
Nammakal District.

5. The District Primary School
Education Officer, Nammakkal.

6. The Correspondent,
Kaklaimagal Kalvi Nillayam,
Higher Elementary School,
Tiruchencode,
Nammakal District.